

**AUG 24 2006**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

JOHNNY RAMEY,

Petitioner - Appellant,

v.

G. LEWIS,

Respondent - Appellee.

No. 03-16768

D.C. No. CV-98-06047-OWW/hgb

**ORDER AMENDING  
MEMORANDUM DISPOSITION  
AND DENYING REHEARING\***

Appeal from the United States District Court  
for the Eastern District of California  
Oliver W. Wanger, District Judge, Presiding

Argued and Submitted December 9, 2004  
San Francisco, California  
Submission withdrawn April 25, 2005  
Resubmitted July 10, 2006

Before: O'SCANNLAIN, COWEN\*\*, and BEA, Circuit Judges.

The memorandum disposition filed July 10, 2006, is amended so that the  
final paragraph begins: "Ramey argues that his federal habeas petition challenged

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\* This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-  
3.

\*\* The Honorable Robert E. Cowen, Senior United States Circuit Judge  
for the Third Circuit, sitting by designation.

his 1998 resentencing and that such claim therefore should not have been dismissed as untimely. Although Ramey is correct on this point, we fail to discern a cognizable federal claim relating to his resentencing in his petition, and hold the district court was correct to dismiss the petition. *See White v. Klizkie*, 281 F.3d 920, 922 (9th Cir. 2002); *Langford v. Day*, 110 F.3d 1380, 1393 (9th Cir. 1996); *Miller v. Vasquez*, 868 F.2d 1116, 1118–19 (9th Cir. 1989). The 1998 resentencing does not affect the finality of Ramey’s 1995 conviction under California law. *See, e.g., People v. Deere*, 53 Cal. 3d 705, 713, 280 Cal. Rptr. 424, 808 P.2d 1181 (1991). Finally, we decline to expand the certificate of appealability to include Ramey’s uncertified claim that the respondent waived the right to assert the statute of limitations as a defense.”

With this amendment, the petition for panel rehearing and pro se motion for en banc consideration are denied. We also note these motions do not conform to the page limit of Fed. R. App. Pro. 35(b)(2). *See* Fed. R. App. Pro. 35(b)(3).